IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

L.Rs. of Late Shri Sumerchand Chordia v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.1281/1994
under Article 226 of the Constitution of India.

Date of Order : 1st February, 2006

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. D.R.Bhandari, for the petitioners.
Mr. P.C.Sharma, for the respondents.

BY THE COURT :

The instant petition for writ was disposed of by learned Single Judge of this Court on 16.11.1992. Being aggrieved by the same original petitioner Shri Sumerchand Chordia preferred an appeal before the Division Bench of this Court. During pendency of appeal original petitioner Shri Sumerchand Chordia died and, therefore, his legal representatives viz. Smt. Pushp Kanwar widow of Shri Sumerchand Chordia, Rajkumar, Praveen and Narendra, all sons of Shri Sumerchand Chordia and Madhu daughter of Shri Sumerchand Chordia were taken on record. Hon'ble

Division Bench by its judgment dated 1.7.2003 accepted appeal and remanded writ petition to Single Bench for its hearing afresh. The legal representatives of Shri Sumerchand Chordia have submitted an amended cause title which is ordered to be taken on record.

Briefly stated, facts of the case are that Rajasthan Housing Board framed a General Registration Scheme, 1982 for allotment of houses under various categories known as Higher Income Group Group, Middle Income Group-B, Middle Income Group-A, Lower Income Group and Economically Weaker Sections. The petitioner in prescribed form submitted an application for registration under General Registration Scheme, 1982 for allotment of a house in the category of Higher Income Group. The petitioner for the purpose above also deposited a sum of Rs.10,000/- with respondent Rajasthan Housing Board on 29.12.1982. After registering the petitioner a registration certificate was issued by the Rajasthan Housing Board on 17.2.1986. By a communication dated 3.7.1992 the Estate Officer, Rajasthan Housing Board, Jodhpur Circle, Jodhpur informed the petitioner that a house in the category of Higher Income Group is kept reserved for allotment. The petitioner was directed to deposit the consideration for the house allotment in three instalments. In pursuant to the communication dated 3.7.1992 the petitioner deposited a sum of Rs.35,000/- on 2.8.1982 as first instalment and the

sum of Rs.35,000/- and 25,000/- were deposited by the petitioner as second and third instalments on 2.2.1993 and 2.8.1993 respectively. As allowed by the respondents, the petitioner opted to purchase house at cash down ownership instead of rent-cum-ownership. The respondents accordingly by letter dated 30.4.1993 conveyed the petitioner about allotment of house No.18-E-130, Chopasani Housing Board Scheme, under the out right sale payment option. The petitioner for the purpose was directed to pay a sum of Rs.3,71,291/-. The statement of demand given by the respondents is as under:-

DETAILS OF COST OF HOUSE & OTHER EXPENSES

(A)Cost of House :
1.Cost of Land(Area 237.93 sq.mtrs.).....Rs.107259.00
2.Cost of Construction.....Rs.294687.00
3.Extra charges for DC/SDC house..... --
Total...Rs.401946.00

(B)Other Charges :
1.Ancillary Service Charges.....Rs..17230.00
2.Lease Money (One Year).....Rs...2682.00
3.Interest on outstanding Seed Money/Inst.Rs.64200.00
Total....Rs..84112.00

(C)TOTAL (A+B) Rs.486058.00

(D)Less :
1.Regisration Amount.....Rs..10000.00
2.Interest on Registration Amount.....Rs...8367.00
3.Seed Money Instalment.....Rs..95000.00
4.Interest on Seed Money/Instalment.....Rs...1400.00
Total.....Rs.114767.00

(E)TOTAL AMOUNT TO BE PAID (C-D).....Rs.371291.00

By the instant petition for writ challenge is given by the petitioner to escalation in the cost of house as under the General Registration Scheme the cost of house was represented as Rs.1,00,000/- only, therefore, no amount beyond the amount already deposited could be charged. The petitioner also assailed the demand made by respondent Rajasthan Housing Board on the count that the rate of land charged by the Board is excessive, lease money demanded by the Board is required to be reduced and the respondents unreasonably imposed an interest of Rs.64,200/-.

No reply to the writ petition has been filed on behalf of the respondents. However, it is stated at Bar by learned counsel appearing on behalf of respondent Rajasthan Housing Board that all the questions raised in the present writ petition have already been decided by Division Bench of this Court in DBCivil Special Appeal No.12/93, Rajasthan Housing Board & Ors. v. Awasan Mandal Parijat Uncha Aywarg Sangarsh Samiti, by judgment dated 8.8.1995 and the judgment given by Division Bench of this Court also stood affirmed by Hon'ble Supreme Court by judgment dated 20.3.1997 in Civil Appeal Nos.2114-2115 of 1997, Awasan Mandal Parijat Uch Ayawarg Sangharsh Samiti through President v. Rajasthan Housing Board & Ors.

I have gone through both the judgments and I am convinced that all the contentions raised in present writ petition have already been considered and decided by Division Bench of this Court and by Hon'ble Supreme Court. However, while examining the demand made by respondent Rajasthan Housing Board it is found that interest on outstanding seed money in a tune of Rs.64,200/- has erroneously been added by the Board. The entire seed money was already deposited by the petitioner and, therefore, no interest against that amount could have been charged. In view of it the demand made by respondent Rajasthan Housing Board in a tune of Rs.3,71,291/- is in excess by sum of Rs.64,200/-. This amount is required to be reduced from the demand made by respondent Rajasthan Housing Board while making allotment in favour of the petitioner. It is also pertinent to note that this Court by an order dated 27.5.1994 restrained respondent Rajasthan Housing Board from cancelling allotment made in favour of the petitioner, as such the allotment in favour of the petitioner still survives.

In view of factual position stated above respondent Rajasthan Housing Board is required to allot the house bearing No.18-E-130 in its Chopasani Housing Board Scheme, Jodhpur to the petitioner by reducing the demand of Rs.3,71,291/- by Rs.64,200/-.

The respondent Rajasthan Housing Board shall issue a revised demand note within a period of 45 days from today and in the event the petitioner after receiving the revised demand deposits the amount demanded within a period of next 30 days, the possession of the house shall be given to the petitioner.

With above observations the writ petition is disposed of.

(GOVIND MATHUR),J.

kkm/ps.